

Unofficial Copy of New MPSC Small Water Rules
Adopted July 6, 2018

July 20, 2018

Exhibit 4

38.5.2501 GENERAL RULES FOR PRIVATELY OWNED WATER UTILITIES

(1) Two simplified regulatory treatment options are available to a small water or sewer utility that allow it to establish or propose changes to its rates by a method other than filing a rate application in accordance with the minimum rate case filing standards of ARM 38.5.101, et seq. The options are:

(a) adoption of the commission-approved standard rate tariff to establish rates as filing a rate application in accordance with the minimum filing requirements described in ARM 38.5.252[7]; or

(b) filing a rate application in accordance with the operating ratio methodology as described in ARM 38.5.2529.

(2) A small water or sewer utility is not required to establish or change its rates using elect either of the simplified regulatory treatment options. It may elect to file a rate application in accordance with ARM 38.5.101, et seq.

(3) All privately owned water utilities must have commission-approved tariffs filed with the commission, pursuant to Title 69, MCA, and its corresponding administrative rules, including penalties as provided by statute.

(4) All privately owned water utilities must file a rate application in accordance with the minimum rate case filing standards of ARM 38.5.101, et seq., or in accordance with the simplified regulatory treatment options rules of ARM 38.5.2527.

(5) As good cause appears and as justice may require, a utility may petition the commission to waive the application of any rule, pursuant to ARM 38.2.305.

(6) Nothing contained in these rules shall be construed to limit the statutory and constitutional authority of the Montana Consumer Counsel to participate and represent the interests of the utility ratepayers in these proceedings.

38.5.2527 SIMPLIFIED REGULATORY TREATMENT OPTIONS

(1) Two simplified regulatory treatment options are available to a small water or sewer utility that allow it to propose rates by a method other than filing a rate application in accordance with the minimum rate case filing standards of ARM 38.5.101, et seq. Option (b) is only available to establish a utility's initial tariff rates with the commission; a utility that has previously had rates on file with the commission is not eligible for this rate. The options are:

(a) filing an operating ratio rate application in accordance with the operating ratio methodology as described in ARM 38.5.2529; or

(b) filing a standard rate application requesting adoption of the Montana Department of Natural Resources and Conservation's most recent water and sewer rate study's monthly water average and/or monthly wastewater average for populations less than 500.

(2) A small water or sewer utility is not required to elect any of the simplified regulatory treatment options. It may elect to file a rate application in accordance with ARM 38.5.101, et seq.

(3) If a utility's election of either of the two simplified regulatory options described in ARM 38.5.2527(1)(a) or (1)(b) would result in increased rates to customers, it may request, or the commission may require the utility to implement the rates in increments over a reasonable time period.

(4) A simplified regulatory treatment option rate application shall contain, at a minimum, the following information:

(a) The full legal name and title of the owner of the utility, its principal place of business and mailing address, the date that it began providing service to customers, and contact information (i.e., name, address, telephone number and email) of the individual(s) representing the utility before the commission;

(b) A detailed description of the utility system and its potential for expansion, including the number of wells, feet of main, and filtration system;

(c) The total number of existing water service connections and meters and existing sewer service connections and meters, and the billing frequency for each type of service;

(d) The total number of potential water service connections and meters and potential sewer service connections and meters;

(e) The number of existing and potential multi-residence dwellings (e.g., apartments or condos) served by a single service connection or meter, and the number of units in each multi-residence dwelling;

(f) The current rates being charged for each type of service, when the current rates went into effect, and whether the current rates have been approved by the commission;

(g) The rates proposed for each type of service;

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(h) If known, the date that utility assets were first placed in service, the date of any sales or transfers that have occurred since utility assets were first placed in service, and the full legal name and title of any previous owner(s);

(i) In the event that the utility is not a new utility, two years of income statements and balance sheets, separately for water and sewer utilities, indicating how these statements were prepared (i.e., cash basis or accrual basis) and who prepared them;

(j) In the event that the utility is not a new utility, a list of any revenue generated during the two years referenced in (i) from sources other than the rates charged to customers, including the source and amount of revenue;

(k) In the event that a utility is not a new utility, a list of each transaction that occurred with an affiliate or related party during the two years referenced, involving more than \$750, the amount paid, service(s) provided, and counterparty;

(l) If a utility is requesting the standard rate tariff, it must file an annual report with the commission; if the utility is requesting the operating ratio tariff, it must file a copy of each annual report for the last three calendar years;

(m) Copies of any water rights owned or leased by the utility, percentage usage of the available water right, and any documentation from the Department of Natural Resources and Conservation involving water right usage or violations;

(n) An affidavit from an owner or manager of the utility attesting to the accuracy of the information provided;

(o) The original cost of utility plant in service, an accounting of any capital improvements made, the amount of depreciation that has been taken on plant in service, and the depreciation schedule(s) used for the different utility asset accounts; and

(p) A complete copy of the information regarding the utility's financial capacity that the utility provided to the Montana Department of Environmental Quality as part of that agency's public water system review process.

(5) Minimum filing requirement forms are available from the commission upon request or on the commission's web site at www.psc.mt.gov.

(6) The commission will determine whether a simplified regulatory treatment option application satisfies the minimum filing requirements in (4)(a) through (p) of this rule, no later than 30 days after it is received by the commission. If the commission determines that the rate application satisfies the minimum filing requirements, it will notice the public for comment or protest.

(7) The commission may deny a rate application requesting simplified regulatory treatment or only grant it in part if the commission determines, based on comments or protest that it would be unjust or unreasonable to allow simplified regulatory treatment or approve the rates proposed by the utility.

(8) A small water or sewer utility's simplified regulatory treatment tariffs may be revoked if the utility is not in compliance with the commission's annual report requirement.

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38.5.2528 STANDARD RATE TARIFF

(1) A small water or sewer utility may file an application to establish its initial commission-approved standard rates for small water or sewer utilities or by adopting its own rates if they are lower than the applicable standard rates. If the utility has previously had rates on file with the commission it is not eligible for initial standard rates. The standard rate application and tariff forms to be submitted for commission review are available from the commission upon request or by obtaining them from the commission's web site at www.psc.mt.gov.

(2) The standard rates for small water and sewer utilities are set pursuant to ARM 38.5.2527(1)(b), as calculated by the commission staff.

(3) Other terms and conditions of service are those provided in the commission's standard rate tariff forms and in ARM 38.5.2501, et seq.

(4) Within ten days of filing its application with the commission, a small water or sewer utility that files a standard rate application must notify every customer in writing and file a copy of the customer notification with the commission.

(5) The customer notification must be mailed to each customer's billing address. The notification must inform customers of the standard proposed rates, provide information that shows the typical bill impact of the application of the standard proposed rates to the utility's average level of customer usage, and provide contact information for the utility, the Montana Consumer Counsel, and the commission.

(6) If either the Montana Consumer Counsel or 20 percent of the utility's customers protest the application, the commission will make a decision on the application following any additional process established by the commission.

(7) A standard rate tariff approved by the commission expires three calendar years after its initial effective date, which begins at the time the commission grants any portion of the standard rate, even if the rate is implemented in increments pursuant to ARM 38.5.2527(3). At least three months prior to the expiration of the standard rate tariff, the utility must file a rate application in accordance with the minimum rate case filing standards of ARM 38.5.101, et seq., or an application in accordance with the operating ratio methodology pursuant to ARM 38.5.2529. A utility may request an extension of the standard rate in limited circumstances and for good cause shown, including for an extension of time to allow the utility to meet its annual report requirements under these rules.

(8) Standard rates shall be considered interim or temporary rates subject to rebate or surcharge pending a decision made in a rate application in accordance with the minimum rate case filing standards of ARM 38.5.101, et seq. or in accordance with the operating ratio methodology pursuant to ARM 38.5.2529.